

**REQUEST FOR VARIANCE**State Form 51184 (R / 5-13)  
Food Protection Program**RECEIVED**  
JUN 26 2015**INDIANA STATE DEPARTMENT OF HEALTH**  
Telephone: 317/234-8569 FAX: 317/233-9200**FOOD PROTECTION PROGRAM**  
**INDIANA STATE DEPT OF HEALTH**

<b>1. Individual Submitting Request:</b>		Date: <u>06 / 23 / 2015</u>	
Name: <u>Jason Hornberger</u>		Telephone: <u>(317) 513-2985</u> Fax: <u>(317) 567-9009</u>	
Mailing Address: <u>6529 Lillians Ct</u>		Email: <u>jason@sushibossindy.com</u>	
<small>Number and Street</small>			
<u>Indianapolis</u>		<u>IN</u>	
<small>P.O. Box</small>		<small>City State ZIP Code</small>	
		<u>46237</u>	
<b>2. Person/Organization Seeking Variance:</b>			
Name: <u>Horny Toad Tavern LLC</u>		Email: <u>jason@sushibossindy.com</u>	
Mailing Address: <u>803 W 10th Street</u>			
<small>Number and Street</small>			
<u>Indianapolis</u>		<u>IN</u>	
<small>P.O. Box</small>		<small>City State ZIP Code</small>	
		<u>46202</u>	
<b>3. Food Establishment(s) for Which Variance is Sought</b>			
Include the following information for each food establishment: <i>(List here or attach additional pages if necessary.)</i>			
• Physical Location <i>(if different than mailing address):</i> <u>See Attached</u>			
• Mailing Address: <u>803 W 10th Street, Indianapolis, IN 46202</u>			
<small>(Number, Street, City, State, and ZIP Code)</small>			
• Telephone Number: <u>(317) 955-2677</u>		Fax Number: <u>(317) 567-9009</u>	
• Person at each retail food establishment most responsible for supervising: <u>Jason Hornberger</u>			
<b>4. State how the proposal varies from each rule requirement, citing relevant rule sections by number:</b>			
<i>(Attach additional pages if necessary.)</i>			
Section 187 of 410 IAC 7-24 "Retail Food Establishment Sanitation Requirements" relating to the production of sushi rice as a non-potentially hazardous food (non-TCS: non-time/temperature controlled for safety food) from a potentially hazardous food(TCS: Time/Temperature Controlled for Safety Food) by a process of acidification. The method of holding food colder than 41F or hotter than 135F is altered by acidifying rice at a pH level 4.1 and below. Sushi Boss is requesting to render a once potentially hazardous product non-potentially hazardous. The product is then safe to hold at room temperature for up to 24hours.			
<b>5. Explain how the potential public health hazards and/or nuisances will be alternatively addressed by the proposal. Include supporting studies, Hazard Analysis Critical Control Point (HACCP) Plan(s), standard sanitation operating procedures, and/or any other evidence: (Attach additional pages, if necessary.)</b>			
Every batch of sushi rice cooked in the morning is measured by calibrated digital pH meter to ensure acidity level is below 4.1pH. Critical analysis and studies show acidified sushi rice with pH value of 4.1 or less and holding at room temperature is safe and the acidity control the growth of bacteria. Sushi rice pH level is logged on every batch cooked and maintains at non-hazardous food condition. Sushi Boss chefs use a specific acidification recipe to ensure the rice is properly rendered non-potentially hazardous. This process is addressed in the HACCP Plan and SSOP. Please see attached.			

**6. List how the proposal demonstrates the following (if applicable to the request):**

- A) How the proposal differs from what is common and usual in similar industry situations:  
It is industry practice to roll sushi using room temperature sushi rice. Most, if not all, mitigate risk by ensuring proper pH level, below critical limit, as a control method.
- B) How the proposal is unique and not addressed in existing rules or law:  
Existing law requires holding outside of 41f and 135F and a variance for any method of altering process. By holding sushi rice between 3.3 to 4.1 pH, it becomes safe to remain at room temperature. At this range *Bacillus cereus* can not survive.
- C) How the proposal does not diminish the protection of public health:  
Sushi Boss's HACCP plan explains properly seasoned rice will have a pH level 4.1 or less and is safe to hold at room temperature.
- D) How the proposal is based on new scientific or technological principle(s):  
*Bacillus cereus* can not grow at a pH of 3.6-4.1, below critical limit; hence avoiding pH danger zone: 4.6-7.5
- E) How the implementation of the variance would be practical:  
The quality of product and service will greatly be enhanced and consistent by implementing the variance. Logging of every batch of sushi rice, taking corrective action when necessary, will maintain the acidity level of sushi rice.

**7. Explain how the person/organization seeking the variance will assure that all provisions of a granted variance will be enacted at each food establishment for which a variance has been granted:**

Sushi Boss chefs are required to test the pH of each batch of rice immediately following acidification. pH must be 3.6-4.1, if levels are found above 4.1 chef must re-acidify and retest. The pH level is then recorded in a logbook. The log book records date, time, and pH values of every batch of sushi rice made.

**8. List all affected parties known by the person/organization seeking a variance, including all affected regulatory authorities: (Attach additional pages if necessary.)**

Marion County Health Department, Hamilton County Health Department and Indiana State Department of Health

**9. Attach copies of any related variances, waivers or opinions issued by other governmental agencies.**

**For Office Use Only**

**10. Signature of Individual Making Request:**

Printed Name, Title: Jason Hornberger Owner

